

compliance with the requirements of this part, the correctness and verification of reports, and the proper disbursement of funds provided under this part.

(Approved by the Office of Management and Budget under control number 1820-0550)

(Authority: 20 U.S.C. 1437(b)(4))

§ 303.122 Control of funds and property.

The statement must provide assurance satisfactory to the Secretary that—

(a) The control of funds provided under this part, and title to property acquired with those funds, will be in a public agency for the uses and purposes provided in this part; and

(b) A public agency will administer the funds and property.

(Approved by the Office of Management and Budget under control number 1820-0550)

(Authority: 20 U.S.C. 1437(b)(3))

§ 303.123 Prohibition against commingling.

The statement must include an assurance satisfactory to the Secretary that funds made available under this part will not be commingled with State funds.

(Approved by the Office of Management and Budget under control number 1820-0550)

(Authority: 20 U.S.C. 1437(b)(5)(A))

NOTE: As used in this part, *commingle* means depositing or recording funds in a general account without the ability to identify each specific source of funds for any expenditure. Under that general definition, it is clear that commingling is prohibited. However, to the extent that the funds from each of a series of Federal, State, local, and private funding sources can be identified—with a clear audit trail for each source—it is appropriate for those funds to be consolidated for carrying out a common purpose. In fact, a State may find it essential to set out a funding plan that incorporates, and accounts for, all sources of funds that can be targeted on a given activity or function related to the State's early intervention program.

Thus, the assurance in this section is satisfied by the use of an accounting system that includes an "audit trail" of the expenditure of funds awarded under this part. Separate bank accounts are not required.

§ 303.124 Prohibition against supplanting.

(a) The statement must include an assurance satisfactory to the Secretary that Federal funds made available under this part will be used to supplement the level of State and local funds expended for children eligible under this part and their families and in no case to supplant those State and local funds.

(b) To meet the requirement in paragraph (a) of this section, the total amount of State and local funds budgeted for expenditures in the current fiscal year for early intervention services for children eligible under this part and their families must be at least equal to the total amount of State and local funds actually expended for early intervention services for these children and their families in the most recent preceding fiscal year for which the information is available. Allowance may be made for—

(1) Decreases in the number of children who are eligible to receive early intervention services under this part; and

(2) Unusually large amounts of funds expended for such long-term purposes as the acquisition of equipment and the construction of facilities.

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(Authority: 20 U.S.C. 1437(b)(5)(B))

[58 FR 40959, July 30, 1993, as amended at 63 FR 18294, Apr. 14, 1998]

§ 303.125 Fiscal control.

The statement must provide assurance satisfactory to the Secretary that such fiscal control and fund accounting procedures will be adopted as may be necessary to assure proper disbursement of, and accounting for, Federal funds paid under this part.

(Approved by the Office of Management and Budget under control number 1820-0550)

(Authority: 20 U.S.C. 1437(b)(6))

§ 303.126 Payor of last resort.

The statement must include an assurance satisfactory to the Secretary that the State will comply with the provisions in § 303.527, including the requirements on—

§ 303.127

- (a) Nonsubstitution of funds; and
- (b) Non-reduction of other benefits.

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(Authority: 20 U.S.C. 1437(b)(2))

§ 303.127 Assurance regarding expenditure of funds.

The statement must include an assurance satisfactory to the Secretary that the funds paid to the State under this part will be expended in accordance with the provisions of this part, including the requirements in § 303.3.

(Approved by the Office of Management and Budget under control number 1820-0550)

(Authority: 20 U.S.C. 1437(b)(1))

§ 303.128 Traditionally underserved groups.

The statement must include an assurance satisfactory to the Secretary that policies and practices have been adopted to ensure—

- (a) That traditionally underserved groups, including minority, low-income, and rural families, are meaningfully involved in the planning and implementation of all the requirements of this part; and
- (b) That these families have access to culturally competent services within their local geographical areas.

(Approved by the Office of Management and Budget under control number 1820-0550)

(Authority: 20 U.S.C. 1437(b)(7))

GENERAL REQUIREMENTS FOR A STATE APPLICATION

§ 303.140 General.

A State's application under this part must contain information and assurances demonstrating to the satisfaction of the Secretary that—

- (a) The statewide system of early intervention services required in this part is in effect; and
- (b) A State policy is in effect that ensures that appropriate early intervention services are available to all infants and toddlers with disabilities in the State and their families, including Indian infants and toddlers with disabilities and their families residing on

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a reservation geographically located in the State.

(Authority: 20 U.S.C. 1434 and 1435(a)(2))

[63 FR 18294, Apr. 14, 1998, as amended at 64 FR 12535, Mar. 12, 1999]

§ 303.141 Information about the Council.

Each application must include information demonstrating that the State has established a State Interagency Coordinating Council that meets the requirements of subpart G of this part.

(Approved by the Office of Management and Budget under control number 1820-0550)

(Authority: 20 U.S.C. 1437(a)(3))

§ 303.142 Designation of lead agency.

Each application must include a designation of the lead agency in the State that will be responsible for the administration of funds provided under this part.

(Approved by the Office of Management and Budget under control number 1820-0550)

(Authority: 20 U.S.C. 1437(a)(1))

§ 303.143 Designation regarding financial responsibility.

Each application must include a designation by the State of an individual or entity responsible for assigning financial responsibility among appropriate agencies.

(Approved by the Office of Management and Budget under control number 1820-0550)

(Authority: 20 U.S.C. 1437(a)(2))

§ 303.144 Assurance regarding use of funds.

Each application must include an assurance that funds received under this part will be used to assist the State to maintain and implement the statewide system required under subparts D through F of this part.

(Approved by the Office of Management and Budget under control number 1820-0550)

(Authority: 20 U.S.C. 1475, 1437(a)(3))

[58 FR 40959, July 30, 1993, as amended at 63 FR 18294, Apr. 14, 1998]

§ 303.145 Description of use of funds.

- (a) *General.* Each application must include a description of how a State proposes to use its funds under this part